



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,939	09/18/2007	Dirk Buchhauser	12406-225US1 P2006,1044 U	6858
26181 7590 04/09/2010 FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER THOMAS, ALEXANDER S	
			ART UNIT 1783	PAPER NUMBER
			NOTIFICATION DATE 04/09/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary	Application No. 10/599,939	Applicant(s) BUCHHAUSER ET AL.	
	Examiner Alexander Thomas	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-16 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 8-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, species A in the reply filed on 3/4/10 is acknowledged. The traversal is on the ground(s) that the instant application is the US national stage of a PCT application filed under 35 USC 371 and therefore restriction practice pursuant to 37 CFR 1.141-1.146 is not applicable. This is found to be persuasive. However, restriction is proper under 35 U.S.C. 121 and 372 for the following reasons:

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, 3-7 and 16, drawn to a product.

Group II, claim(s) 8-14, drawn to a process of making.

Group III, claim(s) 15, drawn to a process of use.

2. The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Groups II and III lack the special technical feature of a glue comprising absorbents and a protective film being more insulating against moisture and/or oxygen than the glue.

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Art Unit: 1794

A. silicon nitride protective film;

B. parylene C protective film.

4. The claims are deemed to correspond to the species listed above in the following manner:

Claims 1, 3-5 and 16 drawn to species A

Claims 1, 3, 4, 6 and 16 drawn to species B

The following claim(s) are generic: 1, 3, 4 and 16.

5. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: they are each drawn to a different protective film material.

Drawings

6. The drawings were received on 3/4/10. These drawings are approved.

Response to Arguments

7. The previous rejections under 35 USC 102 and 103 have been overcome in view of the changes to claim 1.

Claim Rejections - 35 USC § 112

8. Claims 1, 3-5 and 7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no original disclosure directed to the protective film being more insulating against moisture and /or oxygen than the glue used for gluing the capsule to the substrate as is now set forth in claim 1. The original disclosure states that the protective layer is more insulative than glues conventionally

Art Unit: 1794

used with encapsulation (page 5, lines 1-2) but does not state that it is more insulative than the glues used in applicant's claimed invention.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1, 4 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by McCormick 2003/0143423. The reference discloses an organic electronic component (an OED) 18 on a substrate encapsulated in a dimensionally stable capsule (the glass cover plate 24), an adhesive seal 22 comprising absorbents [0027] that attaches the cover plate to the substrate, and a protective or barrier film 26 that covers the transition area from the capsule to the substrate (see Figure 1A) and is more insulating against moisture and/or oxygen than the adhesive 22; see [0033] and [0040]. Concerning claim 4, the term "thin" is a relative term and, as such, does not distinguish over the film 26 in the reference. Concerning claim 16, the device shown in Figure 1A of the reference has glue arranged between the lateral areas of the capsule 24 and the substrate.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1794

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCormick 2003/0143423 in view of Chun 6,710,542. McCormick discloses the invention substantially as claimed; see the above rejection under 35 USC 102.

However, he does not disclose "a protective film" that covers the entire exterior of the component or the use of a silicon nitride protective film. Chun discloses both of these features in his encapsulation for an organic electronic component with a protective film of silicon nitride; see column 2, lines 13-15, claim 1 and column 4, lines 47-52. It would have been obvious to one of ordinary skill in the art to use a silicon nitride film that covers the entire exterior of the component as the protective film in the primary reference in view of the teachings in the secondary reference to improve barrier properties and since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

13. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over McCormick 2003/0143423. McCormick 2003/0143423 discloses the invention substantially as claimed; see the above rejection under 35 USC 102. However McCormick 2003/0143423 does not disclose the claimed thickness of his protective barrier film. It would have been obvious to one of ordinary skill in the art to adjust the thickness of the barrier layer 26 in McCormick 2003/0143423 to any particular thickness so as to provide a desired level of barrier properties for a particular end use since a

Art Unit: 1794

change in size is generally recognized as being within the level of ordinary skill in the art.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1794

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Thomas/
Primary Examiner
Art Unit 1794